

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORTH WORTH DIVISION**

MICHAEL LE and DUNG LE
Plaintiffs,

v.

UNITED STATES OF AMERICA
Defendant.

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CIVIL ACTION NO.
4:22-CV-00147-O

PLAINTIFFS' SIXTH AMENDED DESIGNATION OF EXPERTS

TO: United States of America by and through its attorneys of record Dawn Theiss and Sarah Delaney, 1100 Commerce Street, 3rd Floor, Dallas, Texas 75242.

Plaintiffs make these expert disclosures as required by Federal Rule of Civil Procedure 26(a)(2).

A. Identity of Experts

Plaintiffs may use the following persons at trial to present evidence under Federal Rule of Evidence 702, 703, or 705:

Mike C. Andrews, Ph.D.
Cars, Inc.
P.O. Box 136055
Fort Worth, Texas 76136-6055

Hugh McPherson, M.D.
Spinal Injury Experts
145 Inverness Drive East, Suite 200
Englewood, CO 80112

Jason Marchetti, M.D.
Physician Life Care Planning
12707 Silicon Drive, Suite 150
San Antonio, Texas 78249

Billy Hammons
Interior Concepts, Inc.
9469 Arvin Hill Road
Aubrey, Texas 76227

Jack Leifer, Ph.D., P.E.
1136 E. Quincy Street
San Antonio, Texas 78212

David DeLonga, MD, PhD, PE
3416 Gulf Breeze Parkway
Gulf Breeze, Florida 32563

Matthew Berchuck, M.D.
Physicians, staff, employees and custodian of records
515 East 72nd Street, #36 B
New York, New York 10021

B. Information from Retained Experts

The following persons are those whom Plaintiffs have retained to provide expert testimony:

Mike C. Andrews, Ph.D.
Cars, Inc.
P.O. Box 136055
Fort Worth, Texas 76136-6055
817 578 3777

Please see Dr. Andrews' preliminary report dated April 20, 2020 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. Andrews' preliminary report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs will supplement an animation of the motor vehicle collision which will summarize or support the opinion of Dr. Andrews. FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. Andrews' qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. Andrews has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. Andrews is compensated at a rate of \$325 per hour research / \$375 per hour testimony FRCP26(a)(2)(B)(vi).

Hugh McPherson, M.D.
Spinal Injury Experts, LLC
145 Inverness Drive East, Suite 200
Englewood, CO 80112

Please see Dr. McPherson's report dated January 2, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please see Dr. McPherson's corrected report where he corrects a typographical error in paragraph 3, question 5.

Please also see Dr. McPherson's report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. McPherson's qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. McPherson has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. McPherson is compensated at a rate of \$975 per hour. FRCP26(a)(2)(B)(vi).

Jason Marchetti, M.D.

Physician Life Care Planning
12707 Silicon Drive, Suite 150
San Antonio, Texas 78249
210 501 0995

Please see Dr. Marchetti's report dated December 14, 2022 and his supplemental report dated February 24, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. Marchetti's report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. Marchetti's qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. Marchetti has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. Marchetti's is compensated at a rate of \$650 per hour. Dr. Marchetti was compensated \$14,750 to research and author the Catastrophic Life Care Plan. FRCP26(a)(2)(B)(vi).

Billy Hammons

Interior Concepts, Inc.
9469 Arvin Hill Road

Aubrey, Texas 76227

Please see Mr. Hammons' report dated January 1, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Mr. Hammons' report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Mr. Hammons does not maintain a curriculum vita. Mr. Hammons has not authored any publications in the previous 10 years. Mr. Hammons has served as a general contractor and home builder in North Texas since 1989. General information about Mr. Hammons and his professional experience as a home builder and general contractor may be found at <https://elegancebyici.com> FRCP26(a)(2)(B)(iv).

Mr. Hammons has not testified as an expert at trial or by deposition in the previous 4 years FRCP26(a)(2)(B)(v).

Mr. Hammons is compensated at a rate of \$75 per hour research / \$150 per hour testimony FRCP26(a)(2)(B)(vi).

D. Information from Rebuttal Experts

Jack Leifer, Ph.D., P.E.

1136 E. Quincy Street
San Antonio, Texas 78212

Please see Dr. Leifer's report dated March 9, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. Leifer's report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. Leifer's qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. Leifer has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. Leifer is compensated at a rate of \$275 per hour. FRCP26(a)(2)(B)(vi).

David DeLonga, MD, PhD, PE

3416 Gulf Breeze Parkway
Gulf Breeze, Florida 32563

Please see Dr. DeLonga's report dated March 9, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. DeLonga's report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. DeLonga's qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. DeLonga has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. DeLonga is compensated at a rate of \$1,250 per hour.

Hugh McPherson, M.D.

Spinal Injury Experts, LLC
145 Inverness Drive East, Suite 200
Englewood, CO 80112

Please see Dr. McPherson's rebuttal report dated March 9, 2023, and supporting exhibits, which contain a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. McPherson's report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs may supplement any exhibits that will be used to summarize or support the opinion FRCP26(a)(2)(B)(iii).

Please see the attached curriculum vita evincing Dr. McPherson's qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. McPherson has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. McPherson is compensated at a rate of \$975 per hour. FRCP26(a)(2)(B)(vi).

Mike C. Andrews, Ph.D.

Cars, Inc.
P.O. Box 136055
Fort Worth, Texas 76136-6055
817 578 3777

Please see Dr. Andrews' rebuttal report dated March 9, 2023 which contains a complete statement of all opinions and the basis for them FRCP26(a)(2)(B)(i).

Please also see Dr. Andrews' rebuttal report to identify the facts or data considered by the expert in forming the opinion FRCP26(a)(2)(B)(ii).

Plaintiffs are providing two animations of the motor vehicle collision which will summarize or support the opinion of Dr. Andrews. FRCP26(a)(2)(B)(iii) as cited in his rebuttal report dated March 9, 2023. The animations may be viewed in the dropbox link below:

<https://www.dropbox.com/sh/idl5paa11ea8ab8/AACNAaYfMFPyk9I18pTXfZp2a?dl=0>

If you have trouble viewing the two animations, please contact the undersigned directly and we will email them directly to you.

Please see the attached curriculum vita evincing Dr. Andrews' qualifications including if applicable a list of all publications authored in the previous 10 years FRCP26(a)(2)(B)(iv).

Please see, if applicable, a list of all other cases during the previous 4 years Dr. Andrews has testified as an expert at trial or by deposition FRCP26(a)(2)(B)(v).

Dr. Andrews is compensated at a rate of \$325 per hour research / \$375 per hour testimony FRCP26(a)(2)(B)(vi).

D. Information from Non-Retained Experts

The following persons are those who are not required to provide a written report:

Matthew Berchuck, M.D.
515 East 72nd Street, #36 B
New York, New York 10021

Supplemental Designation

Matthew Berchuck, MD is a board-certified orthopedic surgeon who provided medical care and treatment to Mr. Le.

Dr. Berchuck is expected to testify to the entirety of Mr. Le's medical treatment under his care.

Dr. Berchuck has been designated as a responsible third party. The Defendant alleges that Dr. Berchuck's treatment of Mr. Le was below the standard of care and that Dr. Berchuck committed medical negligence causing Mr. Le to be permanently disabled.

Dr. Berchuck will testify that his care and treatment of Mr. Le was within the standard of care and that he was not medically negligent and did not commit medical malpractice. Dr. Berchuck

will testify that Mr. Le's preexisting condition coupled with the chalk stick fracture of his C6 vertebrae created an emergency medical condition. Dr. Berchuck will testify that he exceeded the standard of care however due to Mr. Le's perilous and pre existing condition, the outcome of Mr. Le's care, whether in surgery or post surgery, could not be guaranteed. Dr. Berchuck will testify that the event which instigated Mr. Le's damages was the motor vehicle collision of May 4, 2018. Dr. Berchuck will testify that the same collision aggravated and exacerbated Mr. Le's preexisting conditions with regards to his ankylosing spondylitis and kyphosis. Dr. Berchuck will testify to his knowledge and experience in treating patients with of ankylosing spondylitis and the complications, risks and predictable prognoses associated with the same. Dr. Berchuck will also testify to his knowledge of studies in patients with ankylosing spondylitis the risks, complications and outcome of the same.

Respectfully submitted,

C. KYLE PUGH, P.C.

/s/ C. Kyle Pugh

C. Kyle Pugh

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Kellie L. McKee

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Dallas, Texas 75206

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Fax: (214)361-6580

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mschulman@schlmanlaw.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

On April 19, 2023 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the ECF system of the court. I hereby certify that I have served the document on all counsel and/or pro se parties of record by a manner authorized by Federal Rules of Civil Procedure 5 (b)(2).

/s/ C. Kyle Pugh
C. Kyle Pugh